

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF RONNIE THOMAS § No. 557, 2010
FOR A WRIT OF MANDAMUS §

Submitted: September 20, 2010
Decided: October 25, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 25th day of October 2010, it appears to the Court that:

(1) The petitioner, Ronnie Thomas, seeks to invoke this Court’s original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to provide him with a “completely restored” copy of the transcript of his 1996 trial. The State of Delaware has filed an answer requesting that Thomas’s petition be dismissed. We find that Thomas’s petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) The record before us reflects that, following a Superior Court jury trial, Thomas was found guilty of 2 counts of Unlawful Sexual Intercourse in the Second Degree, 1 count of Attempted Unlawful Sexual Intercourse in the Second Degree, 1 count of Unlawful Sexual Penetration in the Second Degree and 2 counts of Unlawful Sexual Penetration in the Third

¹ Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

Degree. He was sentenced to 37 years of Level V incarceration. This Court affirmed Thomas's convictions on direct appeal.² In August 2010, Thomas filed a motion in the Superior Court requesting a copy of the full transcript of his 1996 trial. The Superior Court denied the motion, resulting in the filing of the instant mandamus petition.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.³ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.⁴

(4) There is no basis for the issuance of a writ of mandamus in this case. Thomas not only has failed to demonstrate that the Superior Court has arbitrarily failed or refused to perform a duty, but also has pursued another adequate remedy in the form of a motion for transcript. The fact that the motion was unsuccessful does not mean that he may now pursue mandamus relief.

² *Thomas v. State*, Del. Supr., No. 66, 1997, Walsh, J. (Dec. 15, 1997).

³ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁴ *Id.*

NOW, THEREFORE, IT IS ORDERED that Thomas's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice